

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. R5-2009-0535

MANDATORY PENALTY
IN THE MATTER OF

CITY OF REDDING
CLEAR CREEK WASTEWATER TREATMENT PLANT
SHASTA COUNTY

This Administrative Civil Liability Complaint is issued to the City of Redding, Clear Creek Wastewater Treatment Plant (hereafter Discharger) pursuant to California Water Code (CWC) section 13385, which authorizes the imposition of Administrative Civil Liability, CWC section 13323, which authorizes the Executive Officer to issue this complaint, and CWC section 7, which authorizes the delegation of the Executive Officer's authority to a deputy, in this case the Assistant Executive Officer. This Complaint is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2003-0130 (NPDES No. CA0079731).

The Assistant Executive Officer of the Central Valley Regional Water Quality Control Board, (Central Valley Water Board or Board) finds the following:

1. The Discharger owns and operates a wastewater collection, treatment, and disposal system, and provides sewerage service for the City of Redding. Treated municipal wastewater is discharged from the Clear Creek Wastewater Treatment Plant to the Sacramento River, a water of the United States
2. On 5 September 2003, the Central Valley Water Board adopted Waste Discharge Requirements Order R5-2003-0130 (NPDES No. CA0079731), for the City of Redding, to regulate discharges of waste from the Clear Creek Wastewater Treatment Plant.
3. CWC sections 13385(h) requires assessment of mandatory penalties and states, in part, the following:

CWC section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

CWC section 13385 (h)(2) states:

For the purposes of this section, a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more, or for a Group I pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

4. CWC section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

5. Order No. R5-2003-0130 included the following effluent limitation:

B. Effluent Limitations

1. Effluent shall not exceed the following limits:

<u>Constituent</u>	<u>Unit</u>	<u>Daily Maximum</u>
Chlorine Residual ^c 1-hour average	mg/L	0.02 ^{C9}

6. On 28 January 2007 the daily maximum effluent chlorine residual concentration was measured at 0.0286 milligrams per liter (mg/L), or 43.3 percent greater than the allowed daily maximum of 0.02 mg/L in affect at the time. The violation was the result of a faulty cell on the outfall chlorine analyzer.
7. On 29 January 2007 the daily maximum effluent chlorine residual concentration was measured at 0.0283 mg/L, or 41.6 percent greater than the allowed daily maximum of 0.02 mg/L in affect at the time. The violation was the result of a faulty cell on the outfall chlorine analyzer.
8. On 28 February 2007 the daily maximum effluent chlorine residual concentration was measured at 0.055 mg/L, or 175 percent greater than the allowed daily maximum of 0.02 mg/L in affect at the time. The violation was the result of a failure of the de-chlorination equipment to react to the passing of a slug of effluent with a higher than normal chlorine residual.
9. On 8 March 2007 the daily maximum effluent chlorine residual concentration was measured at 0.16 mg/L, or 700 percent greater than the allowed daily maximum of 0.02 mg/L in affect at the time. The violation occurred due to a vacuum leak on the de-chlorination regulator line compression fitting which caused inadequate sulfur dioxide injection into the effluent flow.
10. CWC section 13385(h)(2) defines a serious violation as an exceedance of 40% or more of a group I pollutant as defined in 40 CFR 123.45 or an exceedance by 20% or more of a group II pollutant as defined in 40 CFR 123.45. Chlorine residual is a group II pollutant under 40 CFR 123.45, and the measured exceedances are therefore serious violations under CWC section 13385 (h), and are subject to a mandatory minimum

11. penalty of \$3,000 each. The total amount of the mandatory minimum penalty for the four serious violations during the period beginning 28 January 2007 and ending 8 March 2007 is \$12,000. The total amount of the mandatory penalty is therefore \$12,000.
12. Issuance of this Administrative Civil Liability Complaint to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

THE CITY OF REDDING IS HEREBY GIVEN NOTICE THAT:

1. The Assistant Executive Officer of the Central Valley Water Board proposes that the Discharger be assessed a Mandatory Penalty in the amount of **twelve thousand dollars (\$12,000)**.
2. A hearing on this matter will be conducted at the Central Valley Water Board meeting scheduled on **13/14 August 2009**, unless the Discharger does either of the following by **15 June 2009**:
 - a. Waives the hearing by completing the attached form (checking off the box next to item #4) and returning it to the Central Valley Water Board, along with payment for the proposed civil liability of **twelve thousand dollars (\$12,000)**; or
 - b. Agrees to enter into settlement discussions with the Central Valley Water Board and requests that any hearing on the matter be delayed by signing the enclosed waiver (checking off the box next to item #5) and returning it to the Central Valley Water Board along with a letter describing issues to be discussed in settlement negotiations.
3. If a hearing on this matter is conducted, the Central Valley Water Board will consider whether to affirm, reject, or modify the proposed Administrative Civil Liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability.

original signed by

JAMES C. PEDRI, Assistant Executive Officer

18 May 2009

(Date)

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT

By signing this waiver, I affirm and acknowledge the following:

1. I am duly authorized to represent the City of Redding (hereinafter "Discharger") in connection with Administrative Civil Liability Complaint R5-2009-0535 (hereinafter the "Complaint");
2. I am informed that California Water Code section 13323, subdivision (b), states that, "a hearing before the regional board shall be conducted within 90 days after the party has been served" with the Complaint;
3. I hereby waive any right the Discharger may have to a hearing before the Central Valley Regional Water Quality Control Board (Central Valley Water Board) within ninety (90) days of service of the Complaint; and
4. ☐ **(Check here if the Discharger will waive the hearing requirement and will pay the fine)**
 - a. I certify that the Discharger will remit payment for the proposed civil liability in the amount of **twelve thousand dollars (\$12,000)** by check, which will contain a reference to "ACL Complaint R5-2009-0535" and will be made payable to the "*State Water Pollution Cleanup and Abatement Account*." Payment must be received by the Central Valley Water Board by **15 June 2009** or this matter will be placed on the Central Valley Water Board's agenda for adoption at the 13/14 August 2009 Central Valley Water Board meeting.
 - b. I understand the payment of the above amount constitutes a settlement of the Complaint, and that any settlement will not become final until after the 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) expires. Should the Central Valley Water Board receive new information or comments during this comment period, the Central Valley Water Board's Assistant Executive Officer may withdraw the complaint, return payment, and issue a new complaint. New information or comments include those submitted by personnel of the Central Valley Water Board who are not associated with the enforcement team's issuance of the Complaint.
 - c. I understand that payment of the above amount is not a substitute for compliance with applicable laws and that continuing violations of the type alleged in the Complaint may subject the Discharger to further enforcement, including additional civil liability.

-or-

5. ☐ **(Check here if the Discharger will waive the 90-day hearing requirement, but will not pay at the current time. The Central Valley Water Board must receive information from the Discharger indicating a controversy regarding the assessed penalty at the time this waiver is submitted, or the waiver may not be accepted.)** I certify that the Discharger will promptly engage the Central Valley Water Board staff in discussions to resolve the outstanding violation(s). By checking this box, the Discharger is *not* waiving its right to a hearing on this matter. By checking this box, the Discharger requests that the Central Valley Water Board delay the hearing so that the Discharger and Central Valley Water Board staff can discuss settlement. It remains within the discretion of the Central Valley Water Board to agree to delay the hearing. A hearing on the matter may be held before the Central Valley Water Board if these discussions do not resolve the liability proposed in the Complaint. The Discharger agrees that this hearing may be held after the 90-day period referenced in California Water Code section 13323 has elapsed.

6. If a hearing on this matter is held, the Central Valley Water Board will consider whether to issue, reject, or modify the proposed Administrative Civil Liability Order, or whether to refer the matter to the Attorney General for recovery of judicial civil liability. Modification of the proposed Administrative Civil Liability Order may include increasing the dollar amount of the assessed civil liability.

(Print Name and Title)

(Signature)

(Date)